

ORIGINAL 2 to CW

**IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF PENNSYLVANIA**

DAVID B. CORNEAL AND
SANDRA Y. CORNEAL

FILED
HARRISBURG, PACASE NO. 1:00-CV-1192

VS.

JUN 04 2003 (JUDGE RAMBO)

JACKSON TOWNSHIP, et al MARY E. DIANDREA, CLERK
Per [Signature] JURY TRIAL DEMANDED
Deputy Clerk

**DEFENDANTS, JACKSON TOWNSHIP, W. THOMAS WILSON,
MICHAEL YODER, RALPH WEILER, BARRY PARKS,
DAVID VAN DOMMELEN AND ANN I. WIRTH'S RESPONSE TO
PLAINTIFFS' MOTION FOR LEAVE TO FILE SUR-REPLY BRIEF IN
OPPOSITION TO DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT**

NOW COMES Defendants, Jackson Township, W. Thomas Wilson, Michael Yoder, Ralph Weiler, Barry Parks, David Van Dommelen and Ann I. Wirth by and through their authorized counsel of record, Mayers, Mennies & Sherr, LLP, and in response to the Motion for Leave to File Sur-Reply Brief in Opposition to Defendants' Motion for Summary Judgment, and in opposition to such Motion states as follows:

1. Admitted. It is admitted that an Order was entered. Plaintiffs' characterization of the Order is denied.

2. Admitted.

3. Admitted.

4. Admitted.

5. Denied. To the contrary, all statements of law and fact in Defendants' Reply Brief are properly supported.

6. Denied. Plaintiffs' assertion in Paragraph 6 of their Brief demonstrates a complete lack of understanding of the law, as well as the applicable arguments in this matter. Moreover, Plaintiffs have exhaustively set forth their position regarding the matters in Paragraphs 6, 7 and 8 of their Motion and it is certainly not necessary for additional briefing in this matter.

Defendants have repeatedly asserted in this action that the actions taken with respect to Mr. Corneal's request to subdivide his property were motivated by the work the Township was doing to enact a subdivision and land development ordinance. The assertion by Plaintiffs that the actions including the moratorium as well as deferral of action on certain of Plaintiffs' applications were motivated by other means is simply incorrect and not supported by the record.

7. Denied. See answer to Paragraph No. 6. By way of further response, unlike Plaintiffs who have exhaustively, repetitiously, and wrongfully setting forth the position as stated in Paragraph No. 7 in numerous Briefs including the Brief presently before the Court, Defendants believe that this Court is able to properly read the law without the benefit of additional explanations from the Plaintiffs as to

the state of the law at the time the moratorium was enacted.

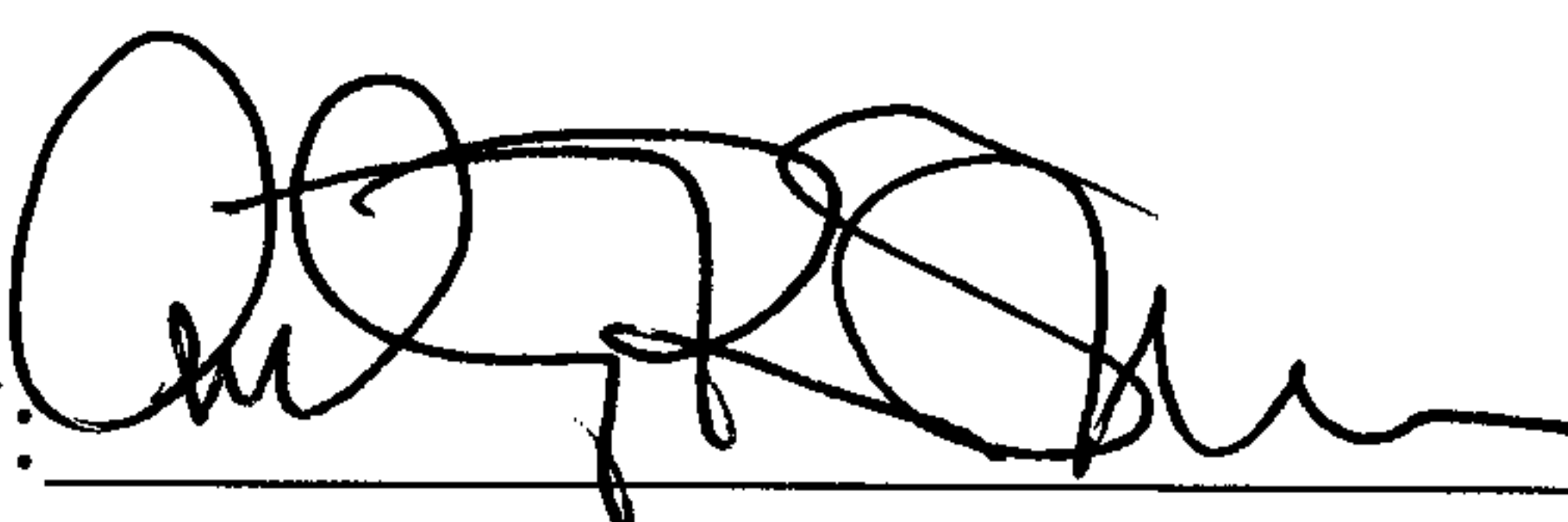
8. See answers to Paragraphs No. 6 and 7.

9. Denied. Again, Plaintiffs have exhaustively and repetitiously set forth their arguments. Additional arguing is completely unnecessary.

WHEREFORE, Defendants, Jackson Township, W. Thomas Wilson, Michael Yoder, Ralph Weiler, Barry Parks, David Van Dommelen and Ann I. Wirth respectfully request that this Honorable Court deny Plaintiffs' leave to file a "Sur-Reply Brief".

Respectfully submitted,

MAYERS, MENNIES & SHERR, LLP

BY: 

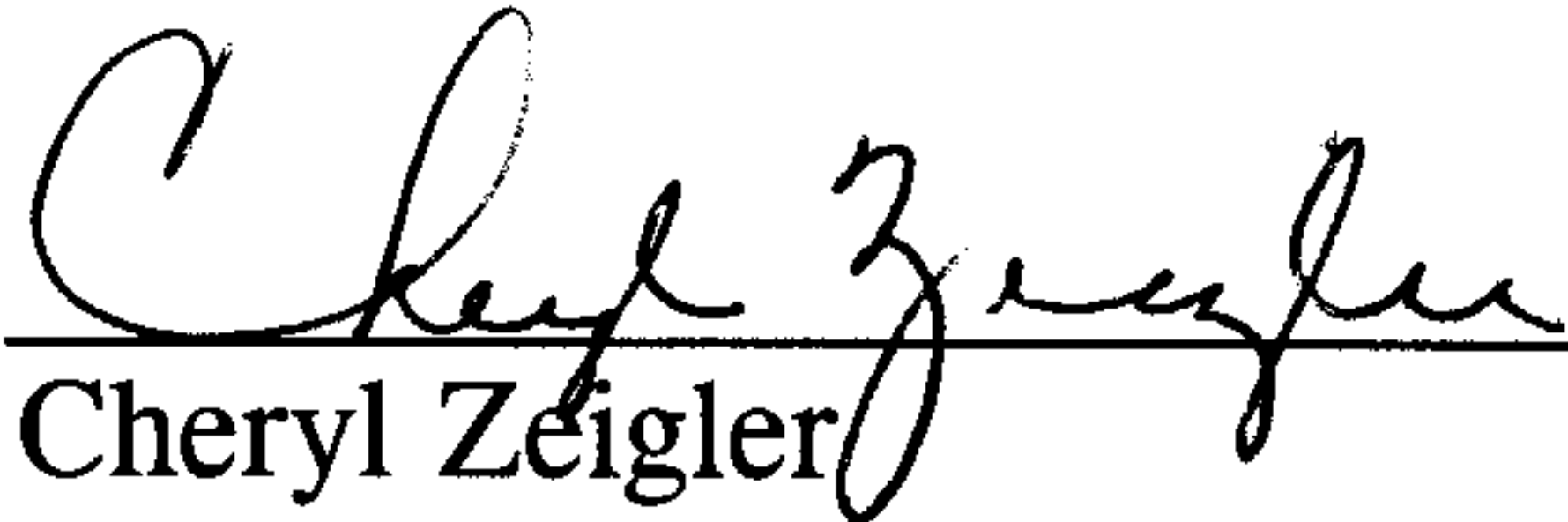
ANTHONY R. SHERR, ESQUIRE
Attorney for Defendants

3031 Walton Road, Building A
Suite 330, P.O. Box 1547
Blue Bell, PA 19422-0440
(610) 825-0300
Fax (610) 825-6555

CERTIFICATE OF SERVICE

I, Cheryl Zeigler, hereby certify that on the 3rd day of June 2003, a true and correct copy of Defendants, Jackson Township, W. Thomas Wilson, Michael Yoder, Ralph Weiler, Barry Parks, David Van Dommelen and Ann I. Wirth's Response to Plaintiffs' Motion for Leave to File Sur-Reply Brief in Opposition to Defendants' Motion for Summary Judgment, was served by first class regular mail, postage prepaid upon the following:

Bridget E. Montgomery, Esquire
Adam M. Shienvold, Esquire
Eckert, Seamans Cherin & Mellott
213 Market Street, 8th Floor
Harrisburg, PA 17101

BY: 
Cheryl Zeigler
Legal Assistant to Anthony R. Sherr